

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ADENIRAN OYEBADE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.: 1:11-cv-00968-JMS-DML
	)	
BOSTON SCIENTIFIC CORPORATION,	)	
	)	
Defendant.	)	

**Report and Recommendation for Fee and Expense Award**

On August 10, 2012, the court entered an order determining that defendant Boston Scientific Corporation should recover from Mr. Oyebade (1) its expenses in connection with any travel required for defense counsel to complete the deposition of Nkeiru Green and (2) attorneys' fees it reasonably incurred in bringing a discovery motion regarding Ms. Green's deposition. (Dkt. 107).

Boston Scientific has now documented its expenses for counsel's travel in completing Ms. Green's deposition and the attorneys' fees it incurred in bringing the prior motion, and it requests that the court enter an award in that sum. (Dkt. 114). It seeks an order requiring Mr. Oyebade to pay it a total of \$2,629.54. Mr. Oyebade did not respond to the request and thus has not challenged Boston Scientific's proof of its fees and expenses.

The court finds that Boston Scientific has provided adequate proof that it incurred (1) \$1,466.54 in travel expenses for completing Ms. Green's deposition and (2) \$1,163.00 in reasonable attorneys' fees in bringing the motion regarding Ms. Green's deposition. Boston Scientific seeks recompense for 3.8 hours billed by counsel at hourly rates that are less than the usual rates its counsel receives from paying clients, but are the effective rates that Boston

Scientific paid for the subject work. The court is satisfied that the hours and hourly rates are reasonable. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (a reasonable attorney's fee is determined by multiplying a reasonable hourly rate by the number of hours reasonably expended); *Mahur v. Board of Trustees*, 317 F.3d 738, 743 (7<sup>th</sup> Cir. 2003) (reasonable hourly rate presumptively is that rate the attorney bills to and receives from paying clients).

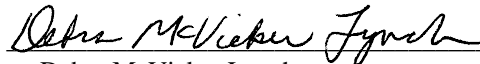
### **Conclusion**

The magistrate judge therefore recommends that the district judge enter an order awarding Boston Scientific Corporation fees and expenses of \$2,629.54, to be paid within 30 days of that order.

The Clerk is directed promptly to mail a copy of this report and recommendation to each party in accordance with Fed. R. Civ. P. 72(a). Any objections to this report and recommendation must be filed with the court in accordance with Fed. R. Civ. P. 72 and 28 U.S.C. § 636(b)(1) within 14 days of service. Failure to object will result in waiver of objection or appeal of the issues addressed in this report and recommendation.

So ORDERED.

Date: 11/21/2012

  
Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

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